

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE

HERSCHEL JAMES

v.

COLIN P. BOGGS

WERNER ENTERPRISES, INC.

:
:
:
:
:
:

NOTICE OF REMOVAL

TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF DELAWARE:

Defendant, Colin Boggs, by and through his attorneys, Rawle and Henderson, LLP,
respectfully aver as follows:

1. Plaintiff commenced a civil action against defendants in the Superior Court of Delaware in and for New Castle County on or around February 11, 2008. See Complaint attached as Exhibit "A."

2. The Complaint, being the original process in this case, was first received by defendant, Colin Boggs, no earlier than March 31, 2008. (*See attached Notice of Service of Process and confirmation of service attached as Exhibit "B"*) Thus, this Notice of Removal is filed within the time provided by 28 U.S.C. §1446(b) and F.R.C.P. 5.

3. This action satisfies the requirements for removal within the meaning of 28 U.S.C. §1332 in that:

a) Plaintiff and Defendants' citizenships are diverse;

1) Plaintiff is a resident and citizen of the State of Delaware.

According to the Complaint, Plaintiff resides in New Castle County, Delaware;

2) Defendants are citizens of states other than Delaware. Defendant, Werner Enterprises, Inc., is a corporation incorporated under the laws of the State of Nebraska with its principal place of business located in Omaha, Nebraska; and,

3) Defendant Colin Boggs is a resident of the Oklahoma and resides in Lamont, Oklahoma; and,

b) The amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

4. In the Complaint, Plaintiff alleged that as a result of the motor vehicle accident at issue in this lawsuit, he "suffered severe and disabling and painful physical injuries, required medical attention and has been deprived of the pursuit of life's pleasures all or some of which may be permanent." See Exhibit "A" at ¶7.

5. Additionally, a fair reading of the records provided by plaintiff reveal that plaintiff is claiming permanent injuries to the neck and back, including alleged cervical herniations and an alleged annular tear in the lumbar spine. See records attached as Exhibit "C."

6. Therefore, a fair reading of the Complaint, along with the known injuries and damages, indicates that an amount in excess of \$75,000 is at controversy in this case.

7. The undersigned counsel also represents Defendant Werner Enterprises, Inc. and it has consented to the removal of this action.

WHEREFORE, defendant, Colin Boggs requests that the above action now pending against him in the Superior Court of Delaware in and for New Castle County, be removed therefrom to this Honorable Court.

By:

RAWLE & HENDERSON LLP

Gary F. Seitz

300 Delaware Avenue, Ste. 1015

Wilmington, DE 19801

(302) 778-1200

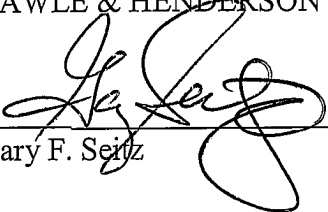
Attorneys for defendants, Colin Boggs and Werner Enterprises, Inc.

CERTIFICATE OF SERVICE

It is hereby certified that a true and correct copy of the within-captioned Notice of Removal Pursuant to 28 U.S.C. §1446(d) was served via first-class mail, postage prepaid, on counsel for plaintiff listed below:

Kenneth F. Carmine, Esquire
840 North Union Street
P.O. Box 30409
Wilmington, DE 19805

RAWLE & HENDERSON LLP



Gary F. Seitz

Dated: April 21, 2008

EXHIBIT A

EFiled: Feb 11 2008 2:50P
 Transaction ID 18548284
 Case No. 08C-02-092 JEB



SUPERIOR COURT CIVIL CASE INFORMATION STATEMENT (CIS)

COUNTY: **N K S** CIVIL ACTION NUMBER:

CIVIL CASE CODE: **CPIA** CIVIL CASE TYPE: **Civil Personal Injury Auto**
 (SEE REVERSE SIDE FOR CODE AND TYPE)

<p>CAPTION:</p> <p>HERSCHEL JAMES,</p> <p>Plaintiff,</p> <p>v.</p> <p>COLIN P. BOGGS and WERNER ENTERPRISES, INC., a Delaware Corporation</p> <p>Defendant.</p>	<p>NAME AND STATUS OF PARTY FILING DOCUMENT:</p> <p>Plaintiff, Herschel James</p> <p>DOCUMENT TYPE: (E.G., COMPLAINT; ANSWER WITH COUNTERCLAIM)</p> <p>Complaint and Answers to Form 30 Interrogatories</p> <p>Non-Arbitration _____ e-File <u>X</u> (CERTIFICATE OF VALUE MAY BE REQUIRED)</p> <p>Arbitration <u>X</u> Mediation _____ Neutral Assessment _____</p> <p>Defendant (Circle One) ACCEPT REJECT</p> <p>JURY DEMAND YES <u>X</u> NO _____</p> <p>TRACK ASSIGNMENT REQUESTED: (CIRCLE ONE)</p> <p>EXPEDITED STANDARD COMPLEX</p>
<p>ATTORNEY NAME(S):</p> <p>Kenneth F. Carmine, Esquire</p> <p>ATTORNEY I.D.(s) 299</p> <p>FIRM NAME: Potter, Carmine & Associates, P.A.</p> <p>ADDRESS: 840 North Union Street P.O. Box 30409 Wilmington, DE 19805-7409</p> <p>TELEPHONE NUMBER: (302) 658-8940</p> <p>FAX NUMBER: (302) 654-8377</p> <p>E-MAIL ADDRESS:</p>	<p>IDENTIFY ANY RELATED CASES NOW PENDING IN THE SUPERIOR COURT BY CAPTION AND CIVIL ACTION NUMBER INCLUDING JUDGE'S INITIALS</p> <p>EXPLAIN THE RELATIONSHIP(S):</p> <p>OTHER UNUSUAL ISSUES THAT AFFECT CASE MANAGEMENT:</p> <p>(If ADDITIONAL SPACE IS NEEDED, PLEASE ATTACH PAGES)</p>
<p>THE PROTHONOTARY WILL NOT PROCESS THE COMPLAINT, ANSWER OR FIRST RESPONSIVE PLEADING IN THIS MATTER FOR SERVICE UNTIL THE CASE INFORMATION STATEMENT (CIS) IS FILED. THE FAILURE TO FILE THE CIS AND TO HAVE THE PLEADING PROCESSED FOR SERVICE MAY RESULT IN THE DISMISSAL OF THE COMPLAINT OR MAY RESULT IN THE ANSWER OR FIRST RESPONSIVE PLEADING BEING STRICKEN.</p>	

EFiled: Feb 11 2008 2:50P

Transaction ID 18548284

Case No. 08C-02-092 JEB



IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

HERSCHEL JAMES,

Plaintiff,

v.

COLIN P. BOGGS and WERNER
ENTERPRISES, INC., a Delaware
Corporation,

Defendants.

C. A. No.

ARBITRATION MATTER

TRIAL BY JURY OF
TWELVE DEMANDEDCOMPLAINT

1. Plaintiff is an individual residing in New Castle County, State of Delaware.
2. Defendant, Colin P. Boggs, is an individual residing at 311 S. Old Main, Lamont, OK 74643. Service of process may be made upon Defendant by serving the Secretary of State pursuant to Title 10 Del. C. §3112.
3. Defendant, Werner Enterprises, Inc., is a corporation doing business in the State of Delaware. Service of process may be made upon Defendant by serving its registered agent at National Registered Agents, Inc., 160 Greentree Drive, Suite 101, Dover, DE 19904.
4. On or about April 5, 2006, Plaintiff was operating a school bus and stopped in traffic on eastbound Route 273 in the left lane, New Castle County, State of Delaware.
5. At said time, a vehicle operated by Defendant, Colin P. Boggs, was traveling eastbound on Route 273 in the left lane. Defendant, Colin P. Boggs failed to maintain control of his vehicle and struck the rear of Plaintiff's vehicle.
6. Colin P. Boggs was negligent in that he:
 - (a) operated his vehicle at a speed greater than that which was reasonably prudent in violation of 21 Del. C. §4168(a);
 - (b) failed to leave a safe and reasonable distance between his motor vehicle and plaintiff's vehicle in violation of 21 Del. C. §4123(c);

- (c) operated his motor vehicle in a careless and/or imprudent manner in violation of 21 Del. C. §4176(a);
- (d) failed to devote full time and attention to the operation of his motor vehicle in violation of 21 Del. C. §4176(b);
- (e) failed to maintain a proper lookout while operating his motor vehicle in violation of 21 Del. C. §4176(b);
- (f) failed to maintain his vehicle under proper control;
- (g) failed to maintain a proper lookout;
- (h) operated his vehicle in an inattentive manner;
- (i) operated his vehicle at a speed greater than that which was reasonable and prudent under the conditions then existing;
- (j) followed another vehicle more closely than was reasonable and prudent and in violation of 21 Del. C. §4123;
- (k) failed to give full time and attention to the operation of his vehicle.

7. As a direct a proximate result of the negligence of the aforesaid Defendant, Colin P. Boggs, Plaintiff suffered severe and disabling and painful physical injuries, required medical attention and has been deprived of the pursuit of life's pleasures all or some of which may be permanent.

8. On information and belief at all times pertinent hereto Defendant, Colin P. Boggs, was operating the motor vehicle in the scope and course of his employment and as the agent and employee of Defendant, Werner Enterprises, Inc. and Colin P. Boggs' negligence is imputed to Defendant, Werner Enterprises, Inc. under the doctrine of respondeat superior.

9. At all times pertinent hereto the vehicle operated by Defendant, Colin P. Boggs, was registered to Defendant, Werner Enterprises, Inc., which authorized and entrusted the use of the vehicle to Defendant, Colin P. Boggs.

WHEREFORE, Plaintiff demands judgement against Defendants jointly and severally in an amount sufficient to compensate him for pain, suffering, general damages, special damages, interest and court costs.

POTTER, CARMINE & ASSOCIATES, P.A.

/s/Kenneth F. Carmine

Kenneth F. Carmine, Esquire (I.D. No.: 299)
840 North Union Street
P.O. Box 30409
Wilmington, DE 19805-7409
(302) 658-8940
Attorney for Plaintiff

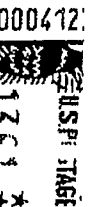
Dated: February 11, 2008

EXHIBIT B

L0081 800 JULY 1999

1102823-30-M-1304

RA 016 111 047 US



LAW OFFICES

POTTER, CARMINE & ASSOCIATES, P.A.

840 N. UNION STREET

P.O. BOX 30409

WILMINGTON, DELAWARE 19805-7409

Registered No.

Date Stamp

To Be Completed
By Post Office

Reg. Fee	10.00	Return Receipt	2.15
Handling Charge		Restricted Delivery	
Postage	1.31		
Received by			

Customer Must Declare Full Value \$ 10.00

☐ With Postal Insurance
☒ Without Postal Insurance

Domestic Insurance up to \$5,000 is included in the fee. International indemnity is limited. (See Reverse)

OFFICIAL USE

To Be Completed By Customer
(Please Print)
All Entries Must Be in Ballpoint or Typed

TO	FROM

PS Form 3806, Receipt for Registered Mail Copy 1 - Customer
May 2004 (7530-02-000-9051) (See Information on Reverse)
For domestic delivery information, visit our website at www.usps.com

Via Registered Mail Return Receipt
Mr. Colin P. Boggs
311 S. Old Main
Lamont, OK 74643



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[Track & Confirm](#) [FAQs](#)

Track & Confirm

Search Results

Label/Receipt Number: RA01 6111 049U S
Status: **Delivered**

Your item was delivered at 3:49 PM on March 31, 2008 in LAMONT, OK 74643.

Track & Confirm

Enter Label/Receipt Number.

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No FEAR Act EEO Data

FOIA



For all the problems
in solving the world



Innovation comes
from the future

EXHIBIT C

259799
4-5-06
BOGGS
ELT
D

STEPHEN B. POTTER KENNETH F. CARMINE JENNIFER-KATE AARONSON
spotter@pottercarmine.com : kcarmine@pottercarmine.com : jkaaronson@pottercarmine.com

November 15, 2007

Ehren Tiedje
Werner Enterprises
Risk Department
P.O. Box 45308
Omaha, NE 68145

DEC 03 2007 PAC

**RE: Your Insured: Werner Enterprises
My Client: Herschel James
Your Claim No.: 259799**

Dear Ehren:

The purpose of this letter is to propose settlement of this claim. I am enclosing herewith for your review medical records as follows:

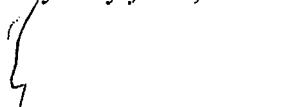
1. Concentra Medical;
2. Morris Peterzell, M.D.; and
3. Charles Mauriello, D.O.

As you can see among those records is Dr. Mauriello's narrative report regarding Mr. James' permanent neck and low back injuries. The workers compensation carrier has paid Mr. James total disability benefits, permanent impairment (Agreements enclosed) and medical bills as has the no-fault carrier. To this day, Mr. James continues to suffer from his injuries. He was able to return to work in September of this year as a school bus driver.

Mr. James is 33 years of age and was not only a school bus driver, but an accomplished professional bowler with a statistical life expectancy of 36 years. Throughout those remaining years of his life, he can expect to continue because of permanent back and neck condition to experience pain particularly in his low back. He has been unable to effectively pursue his bowling career. He used to be very successful in connection with tournaments which he would enter in the area with substantial prize money.

In view of Mr. James' permanent injury and the fact that he was asymptomatic before this accident, we hereby demand the sum of \$62,500.00 plus the worker's compensation lien to settle this matter.

Very truly yours,


Kenneth F. Carmine

KFC/mlc
Enclosure

GLASGOW/BEAR OFFICE
1400 PEOPLES PLAZA, SUITE 101
NEWARK, DELAWARE 19702
TELEPHONE: 302 832 6000
TELECOPIER: 302 832 6008

ALL CORRESPONDENCE TO
840 N. UNION STREET
P.O. Box 514
WILMINGTON, DELAWARE 19899
TELEPHONE: 302 658 8940 TELECOPIER: 302 654 8377
E-MAIL: PCA@POTTERCARMINE.COM

SMYRNA OFFICE
231 N. NEW STREET
SMYRNA, DELAWARE 19977
TELEPHONE: 302 389 0000
TELECOPIER: 302 389 0005

Nov-27-2007 02:30pm From-

T-639 P.003/004 F-627

11/26/07
Page 2

All Payments

HERSCHEL JAMES - W890612750

Total Payments: \$37,238.18

Payments made 04/05/06 up to 11/26/07

~~Indemnity~~ \$12,147.86

\$12,147.86

Tax ID: 000000000

Payee Name	Check Issue Date	Pay Start Date	Pay End Date	Payment Amount
POTTER CARMINE & AARONSON	06/16/07 12:00 AM	06/15/07	06/15/07	8,250.00
POTTER CARMINE & AARONSON	07/16/07 12:00 AM	06/28/07	06/28/07	8,250.00
HERSCHEL JAMES &	11/01/07 12:00 AM	11/01/07	11/01/07	10,080.36

Nov-27-2007 02:30pm From-

T-639 P.004/004 F-627

11/26/07
Page 3

All Payments **HERSCHEL JAMES - W890612750**

Total Payments: \$37,238.18

Payments made 04/05/06 up to 11/26/07

Medical \$17,606.22

\$1,643.15

Tax ID: 510376661

OCCUPATIONAL HEALTH CENTERS OF DELAWARE PA

Payee Name	Check Issue Date	Pay Start Date	Pay End Date	Payment Amount
	09/14/06 12:00 AM	04/07/06	04/07/06	0.00
	09/14/06 12:00 AM	04/05/06	04/05/06	0.00
	09/19/06 12:00 AM	04/07/06	04/07/06	0.00
	09/19/06 12:00 AM	04/05/06	04/07/06	0.00
OCCUPATIONAL HEALTH	09/19/06 12:00 AM	04/05/06	04/21/06	681.79
OCCUPATIONAL HEALTH	09/19/06 12:00 AM	04/19/06	04/19/06	85.41
OCCUPATIONAL HEALTH	09/19/06 12:00 AM	04/19/06	04/21/06	207.84
OCCUPATIONAL HEALTH	09/19/06 12:00 AM	04/12/06	04/12/06	301.47
OCCUPATIONAL HEALTH	09/19/06 12:00 AM	04/11/06	04/12/06	366.64
	09/28/06 12:00 AM	04/10/06	04/12/06	0.00

\$15,049.52

Tax ID: 030428310

PLAZA MEDICAL

Payee Name	Check Issue Date	Pay Start Date	Pay End Date	Payment Amount
	12/08/06 12:00 AM	04/24/06	09/11/06	0.00
PLAZA MEDICAL	01/22/07 12:00 AM	04/24/06	10/03/06	11,294.93
	02/15/07 12:00 AM	04/24/06	08/15/06	0.00
PLAZA MEDICAL	02/20/07 12:00 AM	08/21/06	12/18/06	1,706.31
PLAZA MEDICAL	04/12/07 12:00 AM	01/22/07	02/26/07	615.08
PLAZA MEDICAL	07/31/07 12:00 AM	03/29/07	03/29/07	338.55
PLAZA MEDICAL	07/31/07 12:00 AM	11/27/06	11/27/06	238.55
PLAZA MEDICAL	07/31/07 12:00 AM	10/16/06	10/16/06	220.00
PLAZA MEDICAL	07/31/07 12:00 AM	01/08/07	01/08/07	298.55
PLAZA MEDICAL	08/13/07 12:00 AM	03/21/07	03/21/07	338.55

\$338.55

Tax ID: 030428310

PLAZA MEDICAL ASSOCIATES 3242

Payee Name	Check Issue Date	Pay Start Date	Pay End Date	Payment Amount
PLAZA MEDICAL	07/31/07 12:00 AM	03/30/07	03/30/07	338.55

\$575.00

Tax ID: 521864071

MED EVAL INC

Payee Name	Check Issue Date	Pay Start Date	Pay End Date	Payment Amount
MED EVAL INC	12/19/06 12:00 AM	04/18/06	04/18/06	575.00

Steven L. Edell, D.O., F.A.C.R.
Administrative Director

DELAWARE OPEN MRI

William H. Hartz, M.D.
Medical Director

Kenneth E. Brumberger, M.D.
Michael R. Clair, M.D.
Judith Wolfstein, M.D.
Jonathan Gusdorff, D.O.
Orest Boyko, M.D., Ph.D.

PATIENT NAME / PATIENT PHONE
HERSCHEL JAMES
(302)764-8992

ACCOUNT NO
508003250

AGE/SEX
31/M

MEDICAL RECORD NUMBER
222548145

AT THE REQUEST OF
MORRIS PETERZELL M.D.
1600 WASHINGTON STREET
SECOND FLOOR, SUITE 200
WILMINGTON, DE 19802

DATE OF BIRTH
08/16/1974

DATE OF EXAM
07/28/2006

MAGNETIC RESONANCE IMAGING: CERVICAL SPINE

CLINICAL HISTORY: Status-post injury with pain

INTERPRETATION: Sagittal T1 and T2, and axial and sagittal gradient echo T2 weighted images were obtained of the cervical spine. There are no prior studies for comparison.

The cervical alignment is maintained. Vertebral body height is maintained. Mild multilevel degenerative joint disease is demonstrated. The cord is somewhat suboptimally visualized, but is grossly unremarkable and there is no cord impingement. The cerebellar tonsils are normal in position.

At C2-3, mild bilateral disc bulges with endplate osteophyte formation is demonstrated with no significant stenosis. At C3-4, there is mild spondylotic disc bulge with superimposed left side disc herniation and mild uncovertebral hypertrophy resulting in canal stenosis more on the left with no definite cord impingement. The foramina are patent.

At C4-5, there is spondylotic disc bulge with superimposed small central disc herniation and uncovertebral hypertrophy resulting in moderate canal stenosis with no cord impingement and there is mild bilateral foraminal narrowing.

At C5-6, there is mild spondylotic disc bulge with superimposed small central disc herniation resulting in canal stenosis with no cord impingement. The foramina are patent. At C6-7, there is minimal spondylotic disc bulge and mild uncovertebral hypertrophy with no significant stenosis. The C7-T1 level is unremarkable.

H 42 Omega Drive
Newark, DE 19713

(302) 738-1700 • Fax (302) 738-0100

3211-A Concord Pike
Wilmington, DE 19803

(302) 479-5400 • Fax (302) 479-5905

374 East Main Street
Middletown, DE 19709

(302) 449-2300 • Fax (302) 449-2409

Patient:

HERSCHEL JAMES

Exam Date:

07/28/2006

Ref Doctor:

MORRIS PETERZELL M.D.

Account #:

508003250

Continued: Page 2 of 2

MAGNETIC RESONANCE IMAGING: CERVICAL SPINE

IMPRESSION: MRI of the cervical spine demonstrates multilevel mild degenerative disc disease with disc bulging and spondylotic changes and stenosis as detailed above. There is superimposed left side disc herniation at C3-4 and small central disc herniation at C4-5 and C5-6 as detailed above. There is no evidence of cord impingement.

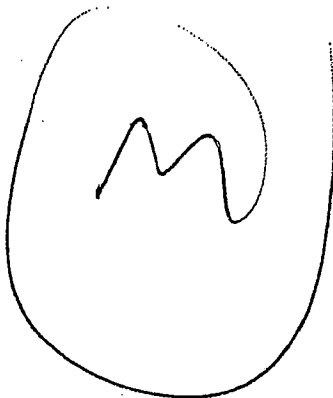
Sincerely,



Michael R. Clair, M.D.

MC/JW:PTN #402881

DD: 7/28/06 @ 10:07 AM

Dictated in conjunction with Judith Wolfstein, MD

04/19/2006 11:07 3029991639

A

PAGE 01/05

04/18/08 07:54 American Radiology Services, Inc.

Page 1 of 2 #2045311 E

NAME JAMES, HERSCHEL

PATIENT'S HOME PHONE (302) 7648992

FREDERICK WILLIAMS M.D.
4110 STANTON-OGLETOWN ROAD
NEWARK, DE 19713

DOB 8/16/1974
EXAM DATE 4/18/2006
MRN# 2300348
ORDER # 3995512

Verified

AMERICAN RADIOLOGY SERVICES at NEWARK 302-999-0774

EXAM DATE: 4/18/2006

MAGNETIC RESONANCE IMAGING OF THE LUMBAR SPINE WITHOUT CONTRAST

INDICATION: History of motor vehicle accident. Prolonged pain. Has a questionable defect of T11 on x-ray.

TECHNIQUE: Sagittal T1 and T2 spin-echo, sagittal STIR, coronal T2 spin-echo, axial T1 and T2 spin-echo images were obtained without contrast on a 1.5 Tesla high-field MRI scanner.

FINDINGS: The lumbar vertebral bodies are intact. No compression fracture or marrow edema is seen.

L2-3 disc space is moderately narrowed and associated with mild disc bulging but no focal disc herniation. No significant spinal stenosis is noted.

L5-S1 disc also shows a mild degenerative disc disease and minimal disc bulging without focal disc herniation. Linear bright T2 signal is seen at the posterior margin of the midline disc consistent with a small annular tear. There is no neural foraminal narrowing or nerve root impingement.

All other lumbar disc spaces are normally preserved.

IMPRESSION:

1. No occult fracture or lumbar spine disc herniation identified.
2. Mild degenerative disease at L2-3 and L5-S1 levels. Incidental finding of annular tear at L5-S1.

MAGNETIC RESONANCE IMAGING OF THE THORACIC SPINE WITHOUT CONTRAST

TECHNIQUE: Sagittal T1 and T2 spin-echo images and double slab axial T2 spin-echo images were obtained

REFERRED BY: FREDERICK WILLIAMS M.D.

REPORTED BY: SUNGKEE S. AHN, MD

04/19/2006 11:07 3029991639

PAGE 02/06

04/19/06 07:54 American Radiology Services, Inc.

Page 2 of 2 #2045311

NAME JAMES, HERSCHEL

PATIENT'S HOME PHONE (302) 7648992

DOB 8/16/1974

EXAM DATE 4/18/2006

MRN# 2300348

ORDER # 3995512

FREDERICK WILLIAMS M.D.

4110 STANTON-OGLETOWN ROAD

NEWARK, DE 19713

Verified

AMERICAN RADIOLOGY SERVICES at NEWARK 302-999-0774

through the length of the thoracic spine.

FINDINGS: The thoracic vertebral bodies are intact. No wedge deformity or abnormal marrow signal is seen. Vertebral cortical margin and end plates appears well preserved including the clinically questioned T11 vertebra. There is no surrounding paravertebral soft tissue swelling around T11.

Thoracic disc spaces are also normally preserved without evidence of disc herniation. No significant thecal sac indentation is seen. Thoracic spinal cord is normal caliber without evidence of syrinx.

IMPRESSION:

1. Thoracic vertebral bodies including T11 appear intact without occult compression fracture or abnormal marrow edema.
2. No thoracic disc herniation is demonstrated.

SA:lb

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4-19

REFERRED BY: FREDERICK WILLIAMS M.D.

REPORTED BY: SUNGKEE S. AHN, MD

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS Herschel James (b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF (EXCEPT IN U.S. PLAINTIFF CASES) (c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER) Kenneth F. Carmine, Esquire 840 North Union Street Wilmington, DE 19805 302-658-8940	DEFENDANTS Colin P. Boggs and Werner Enterprises, Inc. COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT (IN U.S. PLAINTIFF CASES ONLY): NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED. ATTORNEYS (IF KNOWN) Gary Seitz, Esq. Rawle & Henderson, LLP 300 Delaware Avenue, Ste. 1015, Wilmington, DE 19801 (302) 778-1200												
II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY) <input type="checkbox"/> 1. U.S. Government Plaintiff <input type="checkbox"/> 2. U.S. Government Defendant <input type="checkbox"/> 3. Federal Question (U.S. Government Not a Party) <input checked="" type="checkbox"/> 4. Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES For diversity cases only (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) <table style="width:100%;"> <tr> <td style="width:33%;">Citizen of This State</td> <td style="width:33%;">PTF <input checked="" type="checkbox"/> 1 DEF <input type="checkbox"/> 1</td> <td style="width:33%;">Incorporated or Principal Place of Business in this State</td> <td style="width:33%;">PTF <input type="checkbox"/> 4 DEF <input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2 <input checked="" type="checkbox"/> 2</td> <td>Incorporated or Principal Place of Business in Another State</td> <td><input type="checkbox"/> 5 <input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3 <input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6 <input type="checkbox"/> 6</td> </tr> </table>	Citizen of This State	PTF <input checked="" type="checkbox"/> 1 DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	PTF <input type="checkbox"/> 4 DEF <input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2 <input checked="" type="checkbox"/> 2	Incorporated or Principal Place of Business in Another State	<input type="checkbox"/> 5 <input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3 <input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6
Citizen of This State	PTF <input checked="" type="checkbox"/> 1 DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	PTF <input type="checkbox"/> 4 DEF <input type="checkbox"/> 4										
Citizen of Another State	<input type="checkbox"/> 2 <input checked="" type="checkbox"/> 2	Incorporated or Principal Place of Business in Another State	<input type="checkbox"/> 5 <input type="checkbox"/> 5										
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3 <input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6										

IV. ORIGIN (PLACE AN "X" IN ONE BOX ONLY) <input type="checkbox"/> 1 Original Proceeding <input checked="" type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify) <input type="checkbox"/> 6 Multidistrict Litigation <input type="checkbox"/> 7 Judge from Magistrate Judgment
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V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)		
CONTRACT	TORTS	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Exc. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholder's Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employer's Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input checked="" type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury--Med Malpractice <input type="checkbox"/> 365 Personal Injury--Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21, USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> Occupational Safety/Health LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395FF) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RIS (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence HABEAS CORPUS: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE) 28 U.S.C. §§ 1332 & 1446 (d).	
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VII. REQUESTED IN COMPLAINT: <input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	DEMAND \$	CHECK YES only if demanded in complaint: JURY DEMAND: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
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VIII. RELATED CASE(S) IF ANY (See Instructions):	JUDGE	DOCKET NUMBER
DATE: April 21, 2008 SIGNATURE OF ATTORNEY OF RECORD		

FOR OFFICE USE ONLY			
RECEIPT #	AMOUNT \$	APPLYING IFP	JUDGE MAG. JUDGE